

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS MICHAEL MILLER****DEFENDANTS SECOND ROUND, L.P.**

**(b)** County of Residence of First Listed Plaintiff MONTGOMERY  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

**(c)** Attorney's (Firm Name, Address, and Telephone Number) Cary L. Flitter, Esq., and Theodore E. Lorenz, Esq., Flitter Lorenz, P.C., 450 N. Narberth Avenue, Suite 101, Narberth, PA 19072, (610) 822-0782

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | PTF  | DEF   | PTF                        | DEF                        |
|--|---|----------------------------|----------------------------|
| Citizen of This State <input type="checkbox"/> 1                   | <input type="checkbox"/> 1 Incorporated <i>or</i> Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State <input type="checkbox"/> 2                | <input type="checkbox"/> 2 Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 | <input type="checkbox"/> 3 Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability  <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property					

**V. ORIGIN** (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

**VI. CAUSE OF ACTION**

Brief description of cause: FDCPA 15 USC § 1692

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint  
JURY DEMAND: ☒ Yes ☐ No.

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE

DOCKET NUMBER

DATE 7/6/12 SIGNATURE OF ATTORNEY OF RECORD

*[Signature]*

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## UNITED STATES DISTRICT COURT

APPENDIX F

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.**

Address of Plaintiff: 2100 Ash Lane, Lafayette Hill 19444

Address of Defendant: 4150 Freidrich Lane, Suite 1, Austin, TX 78744

Place of Accident, Incident or Transaction: 2100 Ash Lane, Lafayette Hill 19444

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

**A. Federal Question Cases:**

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases

(Please specify) FDCPA, 15 USC § 1692

**B. Diversity Jurisdiction Cases:**

1. ☐ Insurance Contract and Other Contracts
  2. ☐ Airplane Personal Injury
  3. ☐ Assault, Defamation
  4. ☐ Marine Personal Injury
  5. ☐ Motor Vehicle Personal Injury
  6. ☐ Other Personal Injury (Please specify)
  7. ☐ Products Liability
  8. ☐ Products Liability (Asbestos)
  9. ☐ All other Diversity Cases
- (Please specify)

**ARBITRATION CERTIFICATION**

(Check appropriate Category)

I, \_\_\_\_\_, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought

DATE: \_\_\_\_\_

Attorney-at-Law

Attorney I.D.

**NOTE:** A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 7/6/12

CIV.609 (4/03)

AL Rip  
Attorney-at-Law

207715  
Attorney I.D.

## APPENDIX I

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MICHAEL MILLER	:	CIVIL ACTION
	:	
V.	:	
	:	
SECOND ROUND, L.P.	:	NO.

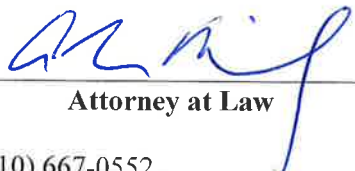
In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. (     )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits (     )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (   X  )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. (     )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases) (     )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (     )

7/6/12  
Date

(610) 822-0782  
Telephone  
(Civ.660) 10/02

  
Attorney at Law  
(610) 667-0552  
Fax Number

ANDREW M. MILZ  
Attorney for Plaintiff  
Amilz@consumerslaw.com  
E-Mail Address

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL MILLER  
2100 Ash Lane  
Lafayette Hill, PA 19444,

Plaintiff,

vs.

SECOND ROUND, L.P.,  
4150 Freidrich Lane, Suite 1  
Austin, TX 78744

Defendant.

CIVIL ACTION NO.

**COMPLAINT**

**I. INTRODUCTION**

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 (“FDCPA”).

2. The FDCPA prohibits collectors from engaging in deceptive and unfair practices in the collection of a consumer debt.

3. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

**II. JURISDICTION**

4. Jurisdiction arises under 15 U.S.C. §1692k and 28 U.S.C. §1337.

**III. PARTIES**

5. Plaintiff Michael Miller (“Plaintiff”) is a consumer who resides in Lafayette Hill, Pennsylvania at the address captioned.

6. Defendant Second Round, L.P. (Second Round) is believed to be a Texas limited partnership with a place of business in Austin, Texas and a mailing address as captioned.

7. Second Round regularly engages in the collection of consumer debts in the Eastern District of Pennsylvania using the mails and telephone.

8. Second Round regularly attempts to collect consumer debts alleged to be due another.

9. Second Round is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(6).

#### **IV. STATEMENT OF CLAIM**

10. On August 18, 2011, Defendant Second Round sent Plaintiff a collection notice seeking to collect an old consumer debt alleged due. A copy of the collection notice is attached hereto as Exhibit “A” (redacted for privacy, per Fed. R. Civ. Pro. 5.2).

11. The collection notice represents the balance due consists of:

Balance	Principal	Interest	Other/Fees
\$3,266.44	\$3,266.44	\$0.00	\$0.00

(Ex. “A”).

12. The FDCPA prohibits debt collectors from using false, deceptive or misleading means in an attempt to collect a debt alleged due, including misrepresenting the character, status, or amount of the alleged debt. 15 U.S.C. §1692e and §1692e(2).

13. Defendant’s statement in its August 18, 2011 letter that the balance consists of \$3,266.44 in principal and \$0.00 in interest and fees is inaccurate. The principal amount claimed includes substantial accumulated interest and fees. This results in an inaccurate and overstated amount of principal being charged, and gives the false impression that no interest has accrued on this account.

14. The term “principal,” as it is commonly understood, does not include interest and fees assessed on the amount borrowed.

15. Misrepresentation of interest and fees as “principal” is deceptive and has practical implications, including potential income tax ramifications.

**COUNT I - FAIR DEBT COLLECTION PRACTICES ACT**

16. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

17. Defendant Second Round’s August 18, 2011 collection letter violates the Fair Debt Collection Practices Act by using false, deceptive or misleading statements in the collection of a consumer debt, in violation of 15 U.S.C. §1692e and §1692e(2).

**WHEREFORE**, Plaintiff Michael Miller demands judgment against Defendant Second Round, LP, for:

- (a) Damages;
- (b) Attorney’s fees and costs;
- (c) Such other and further relief as the Court shall deem just and proper.

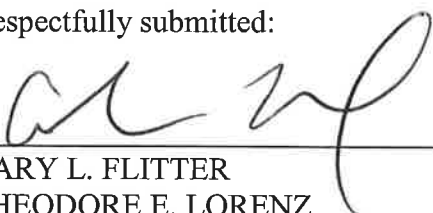
**V. DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all issues so triable.

Date:

7/6/12

Respectfully submitted:

  
\_\_\_\_\_  
CARY L. FLITTER  
THEODORE E. LORENZ  
ANDREW M. MILZ  
Attorneys for Plaintiff

FLITTER LORENZ, P.C.  
450 N. Narberth Avenue, Suite 101  
Narberth, PA 19072  
(610) 822-0781

# EXHIBIT “A”



PO Box 41955  
Austin, TX 78704

8/18/2011



Reference #

Balance

\$3,266.44

Payment Amount

8/18/2011



Pay Online: <http://payments.second-round.com>



Pay By Phone: (866) 950-6357

0000002416



1265373  
MICHAEL MILLER  
2100 ASH LN  
LAFAYETTE HL, PA 19444-2113



PO Box 41955  
Austin, TX 78704



Balance	Principal	Interest	Other/Fees	Original Account Number
\$3,266.44	\$3,266.44	\$0.00	\$0.00	786
Client	Original Creditor	Account Name		
Second Round LP	Chase Bank USA NA	HERITAGE BANK ONE		

Dear MICHAEL MILLER,

Please be advised that your HERITAGE BANK ONE issued by Chase Bank USA NA has been purchased by Second Round LP. The balance of \$3,266.44 represents the current outstanding balance of this account. If you are unable to pay the balance in full at this time, we will accept a settlement to resolve the accounts as follows:

One payment in the amount of \$1,633.00.

Please remit your payment by using the detachable remittance voucher or by visiting our online payment service available at: <http://payments.second-round.com>. If you would like a representative to assist you with making a payment please call toll free 1-866-950-6357.

Please direct all future correspondence and payments concerning this account to:

Second Round, L.P.  
P.O. Box 41955  
Austin, TX 78704-1955

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report. This information may already appear on your credit report. If this information has already been reported, then it may not have an adverse impact on your credit score.

Sincerely,  
Second Round, L.P.

This is a communication from a debt collector and is an attempt to collect a debt.  
Any information obtained will be used for that purpose.

If you submit your payment via personal check, we will electronically convert it into an electronic funds transfer (EFT).  
The amount of your payment will be electronically debited from your account.

**NOTICE: SEE REVERSE SIDE FOR IMPORTANT CONSUMER INFORMATION**

**Second Round, L.P.**  
P.O. Box 41955, Austin, TX 78704  
4150 Freidrich Lane, Suite I, Austin, TX 78744  
Hours of Operation (CST): Mon.-Thur. 10:00 AM - 8:00 PM, Fri 9:00 AM - 5:00 PM  
Toll-Free 1-866-950-6357 Local 512-448-2600